

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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GEETA JOSHI-TOPE,

Plaintiff(s),

-against-

COLD SPRING HARBOR LABORATORY,  
LINCOLN STEIN, BRUCE STILLMAN,  
KATHERINE RAFTERY, HOLLIS CLINE,  
individually and as employees of Cold  
Spring Harbor Laboratory,  
IMRE VASTRIK, EWAN BIRNEY,  
individually and as employees of  
European Bioinformatic Institute,

Defendant(s).

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**WILLIAM D. WALL, United States Magistrate Judge:**

**REPORT AND  
RECOMMENDATION**

CV 07-3346 (ERK) (WDW)

Before the court is a letter from Bernd Uwe-Jahn, Administrative Director of the European Molecular Biology Laboratory, apparently a parent organization to the European Bioinformatic Institute, two of whose employees are defendants. DE[13]. The letter has been deemed a motion to dismiss by District Judge Korman, and was referred to the undersigned by order dated September 15, 2007. DE[21]. The letter appears to have been entered on behalf of the defendants Vastrik and Birney, inasmuch as the European Bioinformatic Institute is not itself a defendant. Those defendants now have counsel and a motion to dismiss filed by their counsel is pending, also on referral to the undersigned. DE [24] & [25]. The relief sought in Document 13, viewed as a motion to dismiss, would have been denied without prejudice to renewal based, *inter alia*, on lack of standing of Mr. Uwe-Jahn, but the subsequent filing of a motion to dismiss on behalf of Vastrik and Birney renders document 13 superfluous, and the undersigned recommends that it be deemed withdrawn.

Thus, the undersigned recommends that DE [13], deemed a motion to dismiss by Judge Korman, be deemed withdrawn.

### **OBJECTIONS**

A copy of this Report and Recommendation is being electronically filed on the date below and faxed to the pro se plaintiff. Any objections to this Report and Recommendation must be filed with the Clerk of the Court within ten days. Failure to file objections within this period waives the right to appeal the District Court's Order. *See* 28 U.S.C. §636 (b) (1); Fed. R. Civ. P. 72; *Beverly v. Walker*, 118 F.3d 900, 902 (2d Cir. 1997); *Savoie v. Merchants Bank*, 84 F.3d 52, 60 (2d Cir. 1996).

Dated: Central Islip, New York  
November 8, 2007

s/ William D. Wall  
WILLIAM D. WALL  
United States Magistrate Judge